

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WOBBLEWORKS, INC.,

Plaintiff

v.

3D SYNERGY TECHNOLOGIES, INC.

Defendant.

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WobbleWorks, Inc. (“WobbleWorks”), hereby brings this complaint for patent infringement against Defendant 3D Synergy Technologies, Inc. (“3D SynTech”) and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for infringement under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271.
2. The United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,102,098 (the “’098 Patent”), entitled “Hand-Held Three-Dimensional Drawing Device,” on August 11, 2015, and U.S. Patent No. 9,731,444 (the “’444 Patent”), entitled “Hand-Held Three-Dimensional Drawing Device,” on August 15, 2017. WobbleWorks is the legal owner of the ’098 Patent and the ’444 Patent by assignment. A true and correct copy of the ’098 Patent is attached hereto as Exhibit A, and true and correct copy of the ’444 Patent is attached hereto as Exhibit B.
3. 3D SynTech has infringed and continues to infringe one or more claims of the ’098 Patent and the ’444 Patent. WobbleWorks seeks, among other things, monetary damages and injunctive relief.

PARTIES

4. Plaintiff WobbleWorks, Inc. is a corporation in the State of Massachusetts, with its principal place of business at 10 Tyler St., Somerville, Massachusetts 02143.

5. On information and belief, Defendant 3D Synergy Technologies is a corporation in Canada, with its principal place of business at 2899 Steeles Ave W., Toronto, ON Canada M3J 3A1. On information and belief, 3D SynTech conducts its business throughout the United States and in this judicial district, including by selling and/or offering to sell the infringing products.

JURISDICTION AND VENUE

6. This action is for patent infringement under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 1338(a) (patent infringement).

7. The Court has personal jurisdiction over Defendant 3D SynTech. Among other reasons, 3D SynTech has infringed WobbleWorks' patents in Texas by, among other things, engaging in infringing conduct within and directed at/or from this District. For example, 3D SynTech has purposefully and voluntarily placed one or more of its infringing products, as described below, into the stream of commerce with the expectation that these infringing products will be used in this District. These infringing products have been and continue to be used in this District.

8. 3D SynTech has committed acts and continues to commit acts within this judicial district giving rise to this action. Venue is proper in this district pursuant to 28 U.S.C. § 1391(c) and § 1400.

FACTUAL ALLEGATIONS

9. Plaintiff WobbleWorks is a pioneer in the development of three-dimensional (3D) drawing devices that can be used within minutes, without needing any technical knowledge, software, or computers. WobbleWorks was founded in 2010 to develop a new product that allows children and adults to draw 3D artwork, literally allowing the user to draw in the air. Its

founders brought with them experience from film, computer science, and robotics and were led by Peter Dilworth, an alumnus of the MIT's Leg Laboratory and the MIT Media Lab.

10. The press recognized the advances made by WobbleWorks. WobbleWorks received the "Rookie of the Year" award in 2017 from The Toy Association in New York, NY.¹ Additionally, the Oppenheim Toy Portfolio awarded WobbleWorks with its "Best Toy" Oppenheim Toy Portfolio Platinum Award in 2016.²

COUNT I: INFRINGEMENT OF PATENT NO. 9,102,098

1. Plaintiff WobbleWorks incorporates the foregoing paragraphs as though fully set forth herein.

2. Defendant 3D SynTech has infringed and continues to infringe one or more claims of the '098 Patent literally and/or under the doctrine of equivalents, directly and indirectly, including, but not limited to Claim 21, pursuant to 35 U.S.C. § 271 by making, importing, offering to sell, selling, using, and/or causing to be used devices and/or systems and methods that embody or practice the inventions claimed in the '098 Patent. 3D SynTech's products that embody or practice the inventions claimed in the '098 Patent include, but are not limited to the Polaroid Design 3D Pen ("Design 3D Pen").

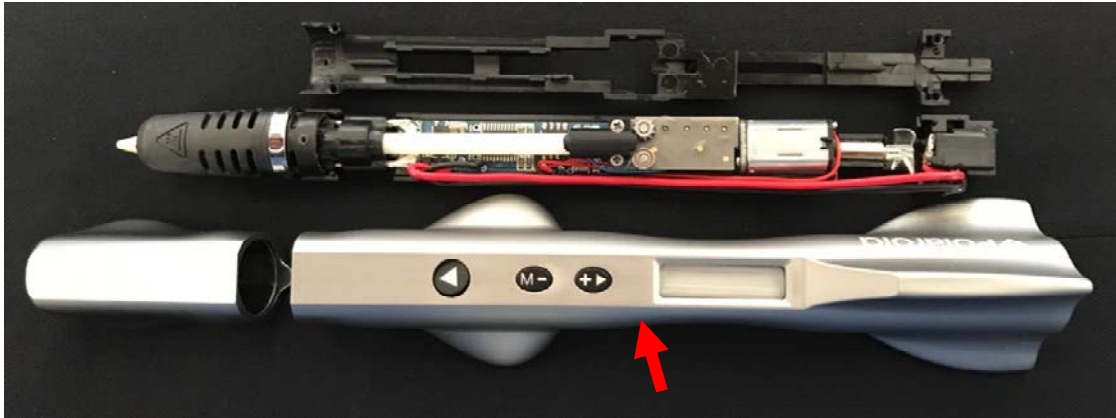
3. As a non-limiting example, set forth below (with claim language in italics and an image of the Design 3D Pen below) is a description of infringement of Claim 21 of the '098 Patent, literally and/or under the doctrine of equivalents, by 3D SynTech's making, importing, offering to sell, selling, and/or using the Design 3D Pen:

¹ <https://www.toyassociation.org/toys/events/toy-of-the-year-awards-home.aspx?TOTY=4>.

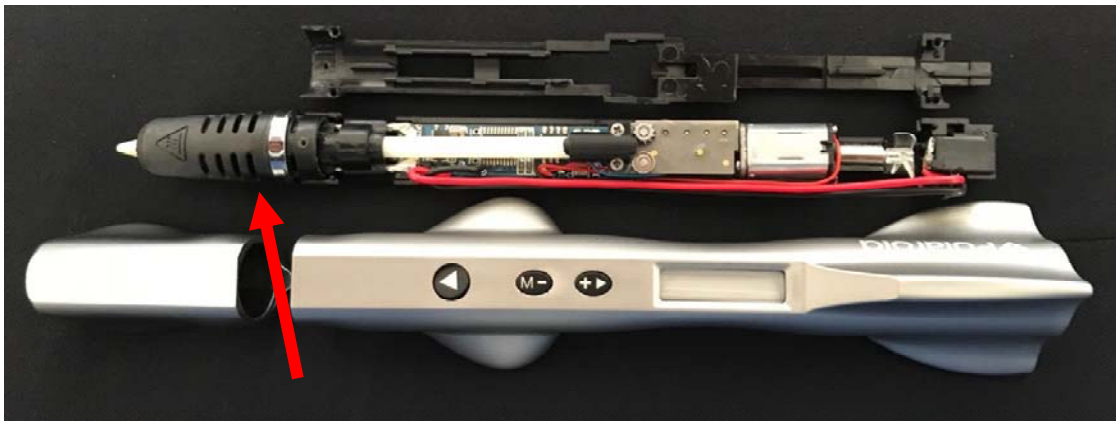
² <http://www.toyportfolio.com/single-post/2016/07/30/WobbleWorks-3Doodler-Start>.

21. A three-dimensional (3D) drawing device comprising:

[21a] a housing having an internal volume;



[21b] a nozzle assembly coupled to the housing, the nozzle assembly comprising an exit nozzle;



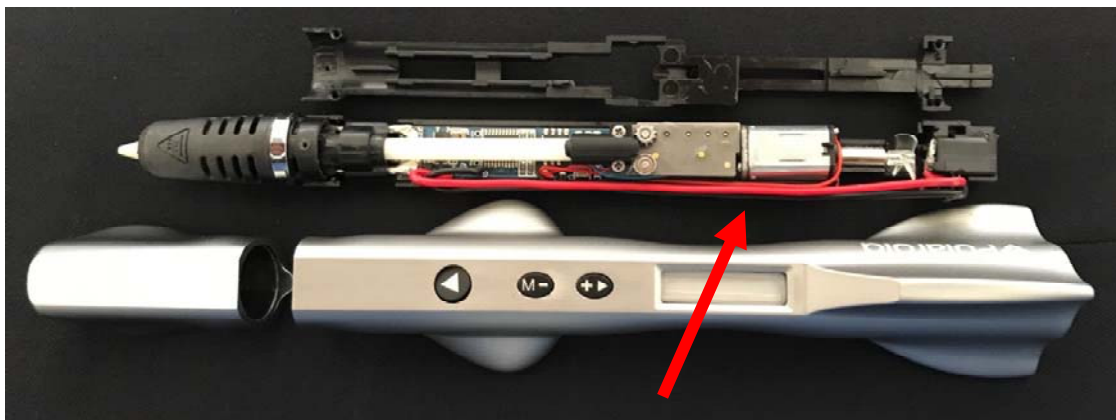
[21c] a fan coupled to the housing and configured to move air into the internal volume;



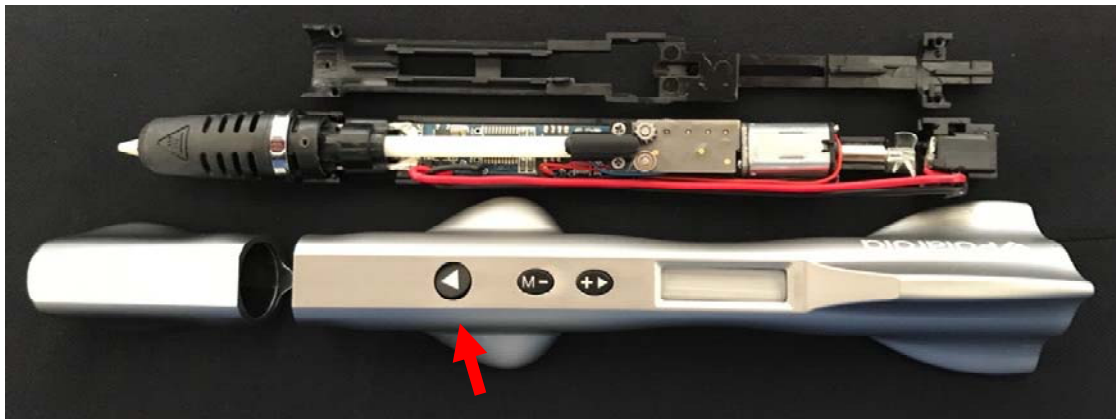
[21d] a plurality of arcuate cooling ports in fluid communication with the internal volume such that the air is directed out of the internal volume through the plurality of ports, the cooling ports arranged around and proximate to the nozzle assembly;



[21e] a motor coupled to the housing; and



[21f] an actuator operatively connected to the motor such that actuation of the actuator controls operation of the motor to move feed stock relative to the exit nozzle.



4. Defendant 3D SynTech has also indirectly infringed the '098 Patent by inducement of infringement under 35 U.S.C. § 271(b). 3D SynTech imports, makes, uses, offers for sale, sells and/or causes to be used the Design 3D Pen with knowledge of and/or willful blindness to the fact that its actions will induce 3D SynTech's customers and end users to infringe the '098 Patent.

5. From at least as early as September 29, 2017, 3D SynTech has had actual knowledge of WobbleWorks' '098 Patent, which is the date on which a letter was delivered to 3D SynTech from WobbleWorks regarding the '098 Patent. The citation of the '098 Patent put 3D SynTech on notice that WobbleWorks had patent protection for its 3D drawing devices such that 3D SynTech knew or should have known that the Design 3D Pen infringed or would infringe WobbleWorks' '098 Patent. 3D SynTech also has actual knowledge of WobbleWorks' rights in the '098 Patent and details of 3D SynTech's infringement of the '098 Patent based on at least the filing of this Complaint and, based on that knowledge, is also indirectly infringing the '098 Patent by inducement of infringement. When the Design 3D Pen are used, that use is an act of infringement of, for example, Claim 21 of the '098 Patent as the Design 3D Pen contains all of the elements of Claim 21 of the '098 Patent, as shown above. Defendant 3D SynTech induces others to infringe the '098 Patent in violation of 35 U.S.C. § 271(b) by encouraging and facilitating others to practice the '098 Patent's inventions. 3D SynTech enables others to infringe the '098 Patent by importing, making, using, offering to sell, selling, and/or causing to be used the Design 3D Pen and by publishing information about the Design 3D Pen including, but not limited to, 3D SynTech's website³ and other marketing materials about the Design 3D Pen.⁴ Defendant 3D SynTech thus actively and knowingly induces users to infringe the '098 Patent by teaching and encouraging users to use the Design 3D Pen in an infringing manner, with the specific intent to cause the infringing use of the Design 3D Pen.

³ <http://www.3dsyntech.com/brands.html>; <https://www.indiegogo.com/projects/polaroid-s-most-advanced-3d-printing-pen>.

⁴ <https://globenewswire.com/news-release/2017/05/10/981927/0/en/Polaroid-Expands-3D-Pen-Offering-in-North-America-with-the-Polaroid-Design-Professional-3D-Pen.html>.

6. On information and belief, based on 3D SynTech's knowledge of the '098 Patent before the Complaint was filed, 3D SynTech's infringement of the '098 Patent has been knowing and willful, entitling WobbleWorks to enhanced damages in accordance with 35 U.S.C. § 284.

7. As the direct and proximate result of 3D SynTech's conduct, WobbleWorks has suffered and, if 3D SynTech's conduct is not stopped, will continue to suffer, severe competitive harm, irreparable injury, and significant damages, in an amount to be proven at trial. Because WobbleWorks' remedy at law is inadequate, WobbleWorks seeks, in addition to damages, preliminary and permanent injunctive relief. WobbleWorks' business operates in a competitive market and it will continue suffering irreparable harm due to 3D SynTech's infringement of the '098 Patent absent injunctive relief.

8. WobbleWorks is entitled to injunctive relief and damages of no less than a reasonable royalty in accordance with 35 U.S.C. §§ 271, 281, 283, and 284 for 3D SynTech's infringement of the '098 Patent.

9. 3D SynTech's infringement of the '098 Patent is exceptional and entitles WobbleWorks to attorneys' fees and costs under 35 U.S.C. § 285.

10. From at least as early as the filing of this complaint, 3D SynTech's infringement of the '098 Patent has been and continues to be willful, entitling WobbleWorks to enhanced damages in accordance with 35 U.S.C. § 284.

COUNT II: INFRINGEMENT OF PATENT NO. 9,731,444

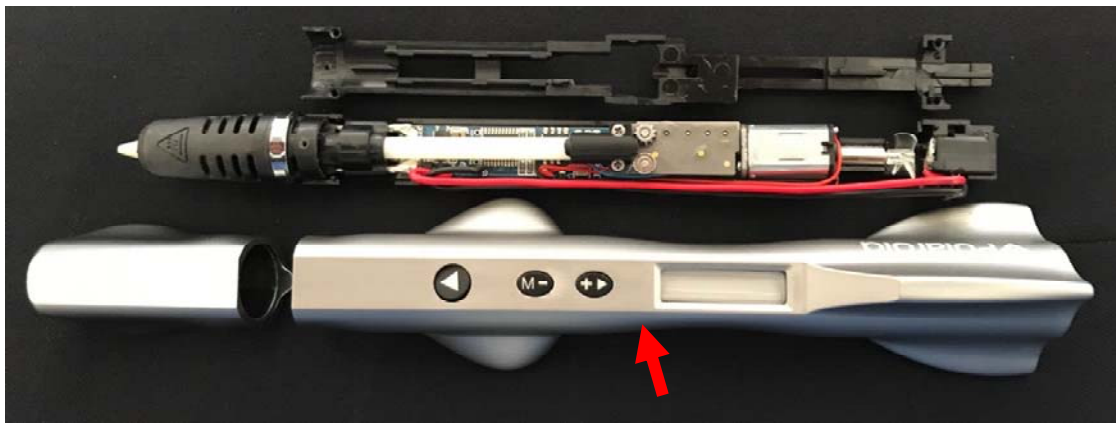
11. Plaintiff WobbleWorks incorporates the foregoing paragraphs as though fully set forth herein.

12. Defendant 3D SynTech has infringed and continues to infringe one or more claims of the '444 Patent literally and/or under the doctrine of equivalents, directly and indirectly, including, but not limited to Claim 1 and Claim 18, pursuant to 35 U.S.C. § 271 by making, importing, offering to sell, selling, using, and/or causing to be used devices and/or systems and methods that embody or practice the inventions claimed in the '444 Patent. 3D SynTech's products that embody or practice the inventions claimed in the '444 Patent include,

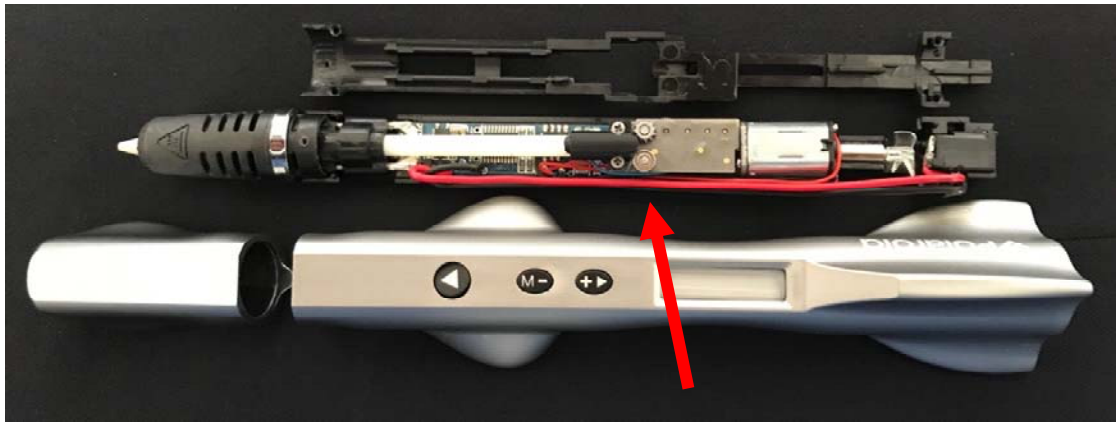
but are not limited to the Design 3D Pen, the Polaroid Draw 3D Pen (“Draw 3D Pen”), the 3D Magic Wand.

13. As a non-limiting example, set forth below (with claim language in italics and an image of the Design 3D Pen below) is a description of infringement of Claim 18 of the ’444 Patent, literally and/or under the doctrine of equivalents, by 3D SynTech’s making, importing, offering to sell, selling, and/or using the Design 3D Pen:

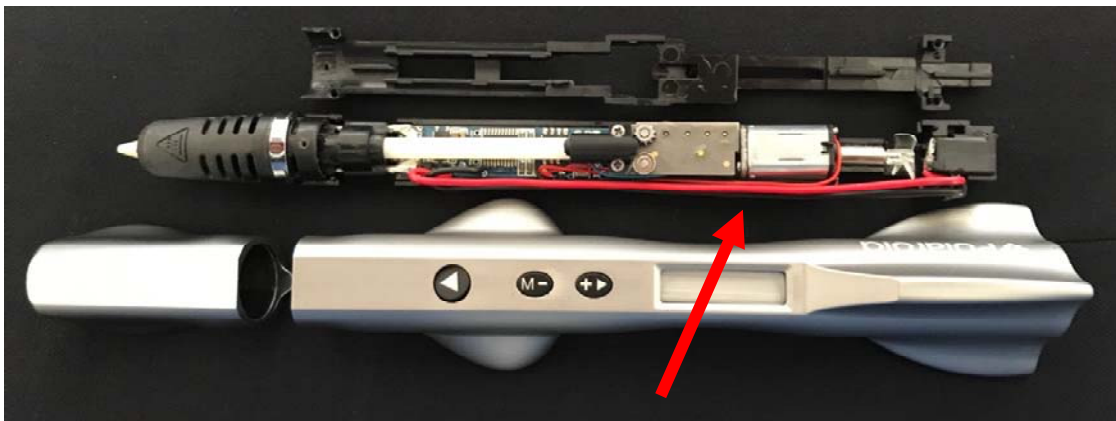
18. A three-dimensional (3D) drawing device comprising:
[18a] an elongate housing having an internal volume and a port that permits insertion of a strand of material into the internal volume;



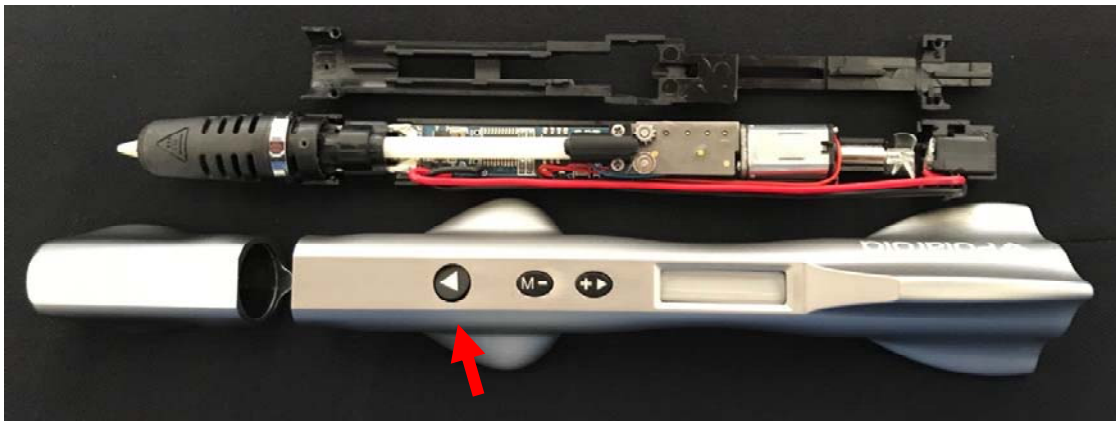
[18b] a gear train disposed within the internal volume to receive and move the strand when engaged with the gear train;



[18c] a motor, disposed within the internal volume, operatively coupled with the gear train to drive motion of the strand;



[18d] at least one actuator coupled to the housing to actuate the motor to control a movement of the strand; and



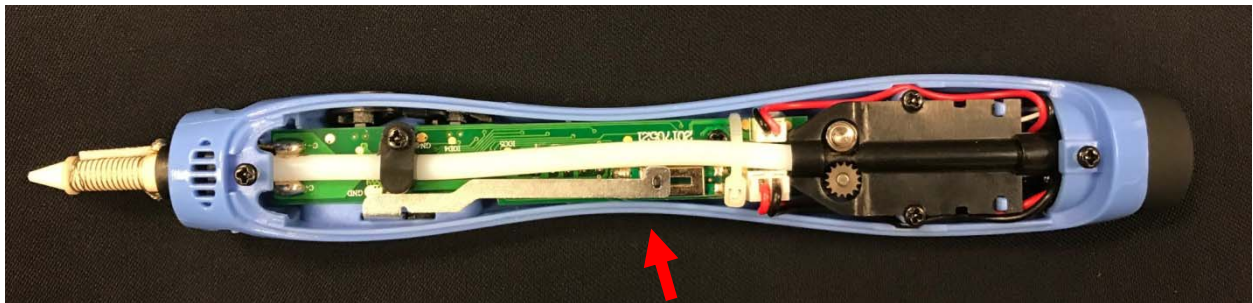
[18e] a nozzle assembly disposed at a distal end of the housing and comprising an extruder and an exit nozzle, the extruder having a heating element for melting the strand, the extruder being disposed between the gear train and the exit nozzle such that rotation of the motor causes the strand to be melted and extruded out of the exit nozzle to permit the user to draw in free space to form a three-dimensional object.



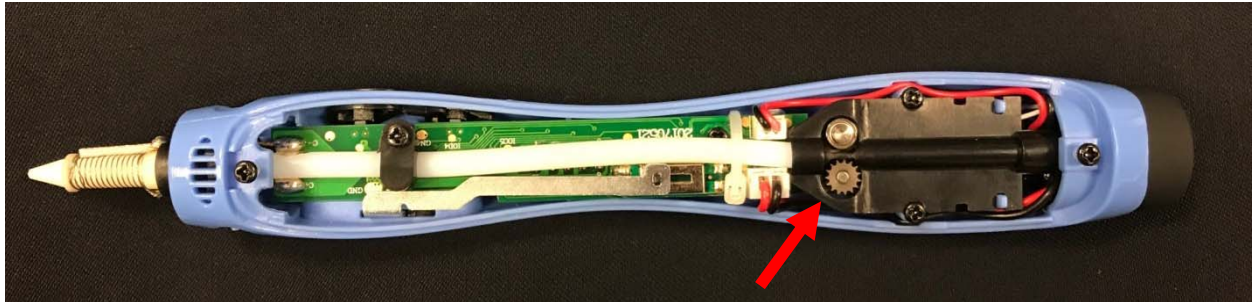
14. As another non-limiting example, set forth below (with claim language in italics and an image of the Draw 3D Pen below) is a description of infringement of Claim 18 of the '444 Patent, literally and/or under the doctrine of equivalents, by 3D SynTech's making, importing, offering to sell, selling, and/or using the Draw 3D Pen:

18. A three-dimensional (3D) drawing device comprising:

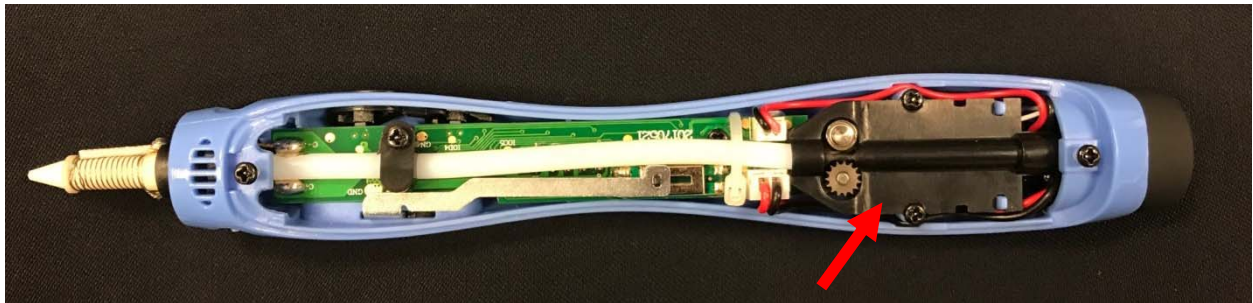
[18a] an elongate housing having an internal volume and a port that permits insertion of a strand of material into the internal volume;



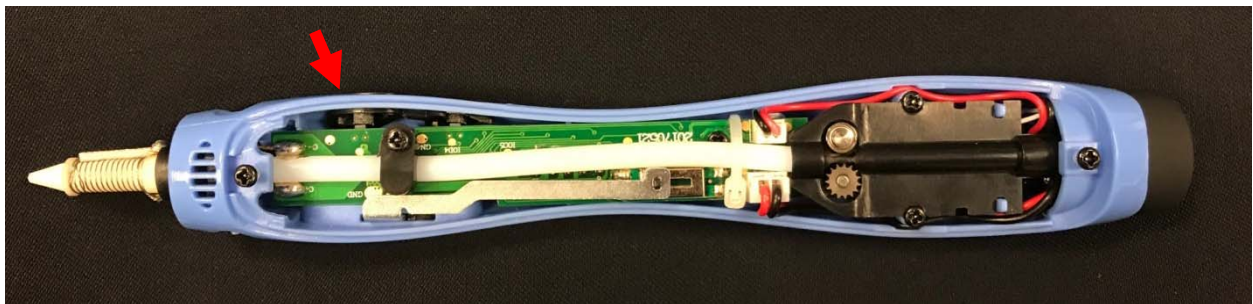
[18b] a gear train disposed within the internal volume to receive and move the strand when engaged with the gear train;



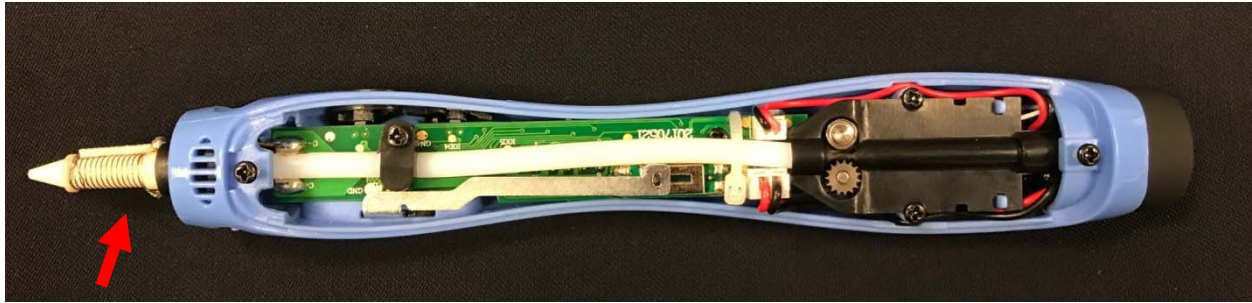
[18c] a motor, disposed within the internal volume, operatively coupled with the gear train to drive motion of the strand;



[18d] at least one actuator coupled to the housing to actuate the motor to control a movement of the strand; and



[18e] a nozzle assembly disposed at a distal end of the housing and comprising an extruder and an exit nozzle, the extruder having a heating element for melting the strand, the extruder being disposed between the gear train and the exit nozzle such that rotation of the motor causes the strand to be melted and extruded out of the exit nozzle to permit the user to draw in free space to form a three-dimensional object.



15. On information and belief, 3D SynTech's 3D Magic Wand, shown immediately below, also infringes at least Claim 18 of the '444 Patent, literally and/or under the doctrine of equivalents, by 3D SynTech's making, importing, offering to sell, selling, and/or using the 3D Magic Wand.⁵



16. Defendant 3D SynTech has also indirectly infringed the '444 Patent by inducement of infringement under 35 U.S.C. § 271(b). 3D SynTech imports, makes, uses, offers for sale, sells and/or causes to be used the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand with knowledge of and/or willful blindness to the fact that its actions will induce 3D SynTech's customers and end users to infringe the '444 Patent.

17. From at least as early as September 29, 2017, 3D SynTech has had actual knowledge of WobbleWorks' '444 Patent, which is the date on which a letter was delivered to

⁵ <http://www.3dsyntech.com/brands.html>; see also <https://3dmagicwand.com/>.

3D SynTech from WobbleWorks regarding the '444 Patent. The citation of the '444 Patent put 3D SynTech on notice that WobbleWorks had patent protection for its 3D drawing devices such that 3D SynTech knew or should have known that the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand infringed or would infringe WobbleWorks' '444 Patent. 3D SynTech also has actual knowledge of WobbleWorks' rights in the '444 Patent and details of 3D SynTech's infringement of the '444 Patent based on at least the filing of this Complaint and, based on that knowledge, is also indirectly infringing the '444 Patent by inducement of infringement. When the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand are used, that use is an act of infringement of, for example, Claim 18 of the '444 Patent as the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand each contain all of the elements of Claim 18 of the '444 Patent, as shown above. Defendant 3D SynTech induces others to infringe the '444 Patent in violation of 35 U.S.C. § 271(b) by encouraging and facilitating others to practice the '444 Patent's inventions. 3D SynTech enables others to infringe the '444 Patent by importing, making, using, offering to sell, selling, and/or causing to be used the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand and by publishing information about the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand including, but not limited to, 3D SynTech's website⁶ and other marketing materials about the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand.⁷ Defendant 3D SynTech thus actively and knowingly induces users to infringe the '444 Patent by teaching and encouraging users to use the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand in an infringing manner, with the specific intent to cause the infringing use of the Design 3D Pen, the Draw 3D Pen, and the 3D Magic Wand.

⁶ <http://www.3dsyntech.com/brands.html>; <https://www.indiegogo.com/projects/polaroid-s-most-advanced-3d-printing-pen>; <https://www.polaroid3d.com/en/play/>; <https://3dmagicwand.com/>.

⁷ <https://globenewswire.com/news-release/2017/05/10/981927/0/en/Polaroid-Expands-3D-Pen-Offering-in-North-America-with-the-Polaroid-Design-Professional-3D-Pen.html>; <https://www.polaroid3d.com/en/play/>; <https://3dmagicwand.com/>.

18. On information and belief, based on 3D SynTech's knowledge of the '444 Patent before the Complaint was filed, 3D SynTech's infringement of the '444 Patent has been knowing and willful, entitling WobbleWorks to enhanced damages in accordance with 35 U.S.C. § 284.

19. As the direct and proximate result of 3D SynTech's conduct, WobbleWorks has suffered and, if 3D SynTech's conduct is not stopped, will continue to suffer, severe competitive harm, irreparable injury, and significant damages, in an amount to be proven at trial. Because WobbleWorks' remedy at law is inadequate, WobbleWorks seeks, in addition to damages, preliminary and permanent injunctive relief. WobbleWorks' business operates in a competitive market and it will continue suffering irreparable harm due to 3D SynTech's infringement of the '444 Patent absent injunctive relief.

20. WobbleWorks is entitled to injunctive relief and damages of no less than a reasonable royalty in accordance with 35 U.S.C. §§ 271, 281, 283, and 284 for 3D SynTech's infringement of the '444 Patent.

21. 3D SynTech's infringement of the '444 Patent is exceptional and entitles WobbleWorks to attorneys' fees and costs under 35 U.S.C. § 285.

22. From at least as early as the filing of this complaint, 3D SynTech's infringement of the '444 Patent has been and continues to be willful, entitling WobbleWorks to enhanced damages in accordance with 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff WobbleWorks prays for the following judgment and relief:

1. Judgment in WobbleWorks' favor and against 3D SynTech on all causes of action alleged herein.

2. An award of damages to WobbleWorks in an amount to be further proven at trial.

3. An award of preliminary and permanent injunctions enjoining 3D SynTech, and its agents, servants, officers, directors, employees, and persons or entities acting in concert with 3D SynTech from infringing directly or indirectly, and/or inducing others to infringe to the infringement of the '098 Patent and the '444 Patent.

4. A finding that this case is exceptional under 35 U.S.C. § 285 and that WobbleWorks be awarded its attorneys' fees.
5. An award of treble damages to WobbleWorks as a result of 3D SynTech's willful infringement.
6. An award of prejudgment and post-judgment interest, costs and other expenses.
7. Any other and further relief as the Court deems equitable and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff WobbleWorks hereby demands a trial by jury on all issues so triable.

December 21, 2017

Respectfully submitted,

/s/ Christopher D. Bright

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